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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,625	08/09/2002	Thomas T Allgeuer	ADVA:004	6821

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EXAMINER

CHEN, VIVIAN

ART UNIT PAPER NUMBER

1773

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/031,625

Applicant(s)

ALLGEUER ET AL.

Examiner

Vivian Chen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2004 and 13 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 24-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,25,27-34,36-57 is/are rejected.
- 7) ☒ Claim(s) 24,26 and 35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 2-23 have been cancelled by Applicant.

***Specification***

2. The objection under 35 U.S.C. 132 to the Amendment filed 11/3/2003 has been withdrawn in view of Applicant's response filed 7/6/2004 (resubmitted 10/13/2004) setting forth the support for the newly presented claims.

***Claim Rejections - 35 USC § 112***

3. The rejections under 35 U.S.C. 112, first paragraph, have been withdrawn in view of Applicant's response filed 7/6/2004 (resubmitted 10/13/2004) setting forth the support for the newly presented claims.
4. The rejections under 35 U.S.C. 112, second paragraph, have been withdrawn in view of Applicant's amendments and arguments filed 7/6/2004 (resubmitted 10/13/2004).

***Claim Rejections - 35 USC § 103***

5. Claims 1, 25, 27-34, 37-48, 50-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over STEEL ET AL (US 3,696,183).

STEEL ET AL discloses a thermoplastic film or sheet comprising a fibril-bearing layer on one or both sides, wherein the fibril-bearing layer is formed of addition polymers such as

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polymers and copolymers of vinyl chloride, ethylene, propylene, and/or styrene, or condensation polymers such as polyesters. The fibril-bearing layer may comprise the entire film, or the film optionally contains one or more additional layers, wherein the fibril-bearing layer may be supplied in the form of a coating on a support layer or as a foam layer. The fibrils may be present on the entire surface, or may be limited to specific regions. The fibril-surfaced films or sheets are suitable for use in disposable hygienic or sanitary articles. The density and the length of the fibrils are controlled by the appropriate selection of fibril-forming conditions and the materials used to generate the fibrils and the material from which the fibril themselves are made. (lines 8-25, col. 2; lines 51-68, col. 2; line 55, col. 3 to line 2, col. 4; lines 1-10, col. 6; lines 42-57, col. 8; lines 20-27, col. 10; Figure 3)

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to select the density and the height of the fibrils (claims 29, 37-44) in order to optimize the cushioning, frictional, and/or other physical properties of the surface-textured films for intended end use. It would have been obvious to select the thermoplastic polymer used for the textured surface (claim 34) depending on the specific mechanical properties and/or fibril-forming characteristics (e.g., melt processing characteristics) needed to obtain a specific type of microtexture. It would have been obvious to combine oriented backing layers in the films of STEEL ET AL (claim 48) in order to improve mechanical and/or barrier properties of the resulting laminate structure, and also would have been obvious to utilize elastic backing layers (claim 50) in order to produce form-fitting or stretchable textured laminates. One of ordinary skill in the art would have used conventional adhesion-promoting treatments such as corona

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discharge (claim 51) in order to improve the adhesion of the fibril-surfaced film to subsequently applied coatings.

6. Claim 36, 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over STEEL ET AL (US 3,696,183) as applied to claim 1 above, and further in view of HEMMING (US 3,987,228).

HEMMING discloses that it is well known in the art to crosslink fibril-surfaced thermoplastic films in order to increase durability and abrasion resistance (Abstract; column 1).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to crosslink the fibril-bearing layer as disclosed in STEEL ET AL in order to improve the durability and abrasion resistance of the fibril-bearing surface.

### *Response to Arguments*

7. Applicant's arguments filed 7/6/2004 (resubmitted 10/13/2004) with regard to GRUBER ET AL have been considered and deemed persuasive.

8. Applicant's arguments filed 7/6/2004 (resubmitted 10/13/2004) with regard to STEEL ET AL and HEMMING ET AL have been considered but are unpersuasive for the following reasons:

(A) Applicant argues that STEEL ET AL fails to disclose the claimed mono- or multi-layer film, sheet, or coating having the recited surface microtexture and comprising the specified thermoplastic materials. However, contrary to Applicant's assertions, the reference clearly

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discloses both the recited textured surface, films and/or laminates incorporating such surfaces, and the use of the recited thermoplastic materials. (see entire document, especially lines 8-25, col. 2; lines 51-68, col. 2; line 55, col. 3 to line 2, col. 4; lines 1-10, col. 6; lines 42-57, col. 8; lines 20-27, col. 10; Figure 3) Furthermore, from the description provided in the reference, the Examiner has reason to believe that the microstructures produced in the prior art are substantially solid as defined in Applicant's specification. Applicant has provided no persuasive evidence to the contrary.

*Allowable Subject Matter*

1. Claims 24, 26, 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

2. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to explicitly disclose or suggest films and similar articles having fringed microstructures, wherein the fringes are formed from thermoplastic and biodegradable polylactide polymers (claims 24, 26, 35).

***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivian Chen whose telephone number is (571) 272-1506. The examiner can normally be reached on Monday through Thursday from 8:30 AM to 6 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones, can be reached on (571) 272-1535. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

The General Information telephone number for Technology Center 1700 is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 24, 2004



Vivian Chen  
Primary Examiner  
Art Unit 1773